

REMARKS

Upon entry of the above-identified amendments, Claims 1-13 remain pending in the present application. Claims 1, 2 and 11 have been amended and new Claim 13 has been added.

The pending claims have been rejected under either 35 U.S.C. 102(b) or 35 U.S.C. § 103(a) as being unpatentable over Carmo et al. (U.S. Pat. No. 5,487,581), either alone or in combination with other references. Applicant traverses these rejections and requests that the Examiner withdraw the rejections in view of the foregoing amendments and the following comments.

Rejection of the Claims Under § 102(b)

The Examiner rejected Claims 1-4, 7 and 9-12 under § 102(b) as being anticipated by Carmo et al. Applicant traverses this rejection. To anticipate a claim, a reference must disclose each element recited in the claim. Carmo does not disclose a hook, as recited in Claims 1, 11 and 13.

The Examiner notes that Carmo discloses a “cantilever portion having a base and a free end,” and that a “hook 22 blocks at least a portion of the slot 40.” However, what the Examiner identifies as the “hook” 22 is in fact the free end of the cantilever portion, which defines a slot between surfaces 34, 36. Carmo does not disclose a hook “extending into the slot between the free end and the handle member, the hook configured to block at least a portion of the slot, wherein at least a portion of the slot defines a well, and wherein the hook is angled inwardly toward the well” as recited in amended Claim 1. Similarly, Carmo does not disclose a hook attached to the cantilever portion and extending into the slot between the cantilever portion and the handle member, wherein the hook is angled inwardly toward the well defined by the slot, as recited in amended Claim 11.

Accordingly, because Carmo does not disclose a hook as recited in amended Claims 1 and 11, and new Claim 13, Carmo does not anticipate Claims 1, 11 or 13. Claims 2-4, 7, and 9-10 depend from Claim 1 and are also not anticipated by Carmo for the same reasons as Claim 1. Claim 12 depends from Claim 11 and is also not anticipated by Carmo for the same reasons as Claim 11.

Rejection of the Claims Under § 103(a)

The Examiner rejected Claim 5 under § 103(a) as unpatentable over Carmo in view of Kosteniuk. Applicant traverses the rejection. The Examiner notes that “Carmo does not

explicitly teach first and second hook portions as claimed," but that Kosteniuk "teaches at least first and second positions of the hook portion 26 relative to body portion 22." Applicant traverses the rejection.

As discussed above with regard to rejections under § 102(b), Carmo does not disclose a hook, as recited in the pending claims. What the Examiner refers to as the "hook" is in fact the free end of the cantilever portion. For example, the Examiner refers to element 26 in Kosteniuk as the hook, but this is the cantilever portion, which defines a slot between the upper arm 22 and the lower arm 26. Applicant has amended Claim 1 to recite that the hook is "angled inwardly toward the well," and to further distinguish from Kosteniuk, which shows a triangular flange 40 between the lower arm 26 and the upper arm 22 and angled away from the retainer 38. Neither Carmo nor Kosteniuk, alone or in combination, teach or suggest a hook "extending into the slot between the free end and the handle member, the slot being configured to block at least a portion of the slot, wherein at least a portion of the slot defines a well, and wherein the hook is angled inwardly toward the well," as recited in Claim 1.

The hook of the presently recited invention provides for bags to be readily introduced onto the device, yet not inadvertently come off the device. Neither the Carmo reference nor any of the cited secondary references disclose or suggest any feature that provide this advantage. For the foregoing reasons, Claim 5 is patentable over Carmo in view of Kosteniuk.

The Examiner also rejected Claim 6 under § 103(a) as unpatentable over Carmo in view of Battiato. As discussed above, Carmo does not disclose every element of Claim 1 because it does not disclose a hook as recited in Claim 1. Moreover, Carmo nor Battiato, alone or in combination, teach or suggest an apparatus as recited in Claim 6 because they do not teach a hook angled inwardly toward the well defined by a slot between a cantilever portion and a handle member.

The Examiner also rejected Claim 8 under § 103(a) as being unpatentable over Carmo alone. As noted above, Carmo does not disclose the apparatus recited in Claim 1 because it does not disclose a hook angled inwardly toward the well defined by a slot between a cantilever portion and a handle member. Moreover, Carmo does not teach or suggest the use of said hook. Carmo relies on the angle between surfaces 34, 36 that define a slot therebetween to "guide and squeeze down the straps 42 of the bag or sack which is placed within hand grip 10 as shown in Fig. 1." See Col. 4, lines 6-26. For the foregoing reason, Claim 8 is patentable over Carmo.

Appl. No. : 10/028,~36
Filed : December 19, 2001

Amendment to the Specification

Applicant has amended the specification to disclose that the hook angles inwardly toward the well defined by the slot between the handle member and the cantilever portion. This feature is clearly illustrated in the figures of the above-identified application. As such, the amendment does not constitute the addition of new matter to the application. In addition, Applicant has corrected a typographical error in Paragraph 13 that incorrectly identifies the hook with reference numeral 15, instead of reference numeral 115. No new matter has been added.

CONCLUSION

For the foregoing reasons, Applicant respectfully submits that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, Applicant requests withdrawal of the rejections and early issuance of a Notice of Allowance.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 29 Oct. 2003

By:



Daniel E. Altman
Registration No. 34,115
Attorney of Record
Customer No. 20,995
(949) 760-0404